

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

08/914,743 08/19/97 CERRETA

M 6586R

EXAMINER

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HM22/0919

WHITE, E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1623

B

DATE MAILED:

09/19/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Advisory Action**

Application No.

08/914,743

Applicant(s)

CERRETA et al.

Examiner

Everett White

Group Art Unit

1623

## THE PERIOD FOR RESPONSE: [check only a) or b)]

a)  expires \_\_\_\_\_ months from the mailing date of the final rejection.

b)  expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on Sep 1, 2000 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Sep 1, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

The proposed amendment(s):

will be entered upon filing of a Notice of Appeal and an Appeal Brief.

will not be entered because:

- they raise new issues that would require further consideration and/or search. (See note below).
- they raise the issue of new matter. (See note below).
- they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Applicant's response has overcome the following rejection(s):  
\_\_\_\_\_

Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
of the reasons disclosed in the previously filed Office Actions in the rejection of the Claims under 35 U.S.C 103 as being unpatentable over the Elsen et al patent. With regard to the amendment to the claims filed September 1, 2000, see column 2, 4th paragraph of the Elsen et al patent which suggests that the newly claimed particles sizes of the solid polyol fatty acid polyester are well known in the art.

For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: NONEClaims objected to: NONEClaims rejected: 1-19 and 41-54

The proposed drawing correction filed on \_\_\_\_\_  has  has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Other Claims 20-40 and 55 are withdrawn from consideration as being directed to a non-elected invention.

  
GARY GEISTSUPERVISORY PATENT EXAMINER  
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